



# **FREDERICK COUNTY PLANNING COMMISSION**

## **June 11, 2014**

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**TITLE:** **Mountaindale Convenience Store**

**FILE NUMBER:** **SP-07-33, AP# 13958, APFO# 13959, FRO# 13960**

**REQUEST:** **Site Plan and APFO Approval**

The Applicant is requesting site plan and APFO approval for the construction of a 20 pump automobile filling station with a 4 pump fueling station for trucks as well as a 7,200 square foot accessory convenience store on a 4.00 acre site.

### **PROJECT INFORMATION:**

**ADDRESS/LOCATION:** 6825 Putman Road, located at the southwest corner of US 15 and Putman Road, south of Baugher Road.

**TAX MAP/PARCEL:** Tax Map 40, Parcel 546  
**COMP. PLAN:** General Commercial  
**ZONING:** General Commercial  
**PLANNING REGION:** Frederick  
**WATER/SEWER:** W-NPS, S-NPS

### **APPLICANT/REPRESENTATIVES:**

**APPLICANT:** Julian Mitchell  
**OWNER:** BB&T Wealth Management  
**ENGINEER:** Terra Solutions Engineering, LLC  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:** Conditional Approval

### **ATTACHMENTS:**

Exhibit 1-Site Plan Rendering  
Exhibit 2-Parking Space Modification Request  
Exhibit 3- Lighting Modification Request  
Exhibit 4- Mountaindale APFO Letter of Understanding LOU

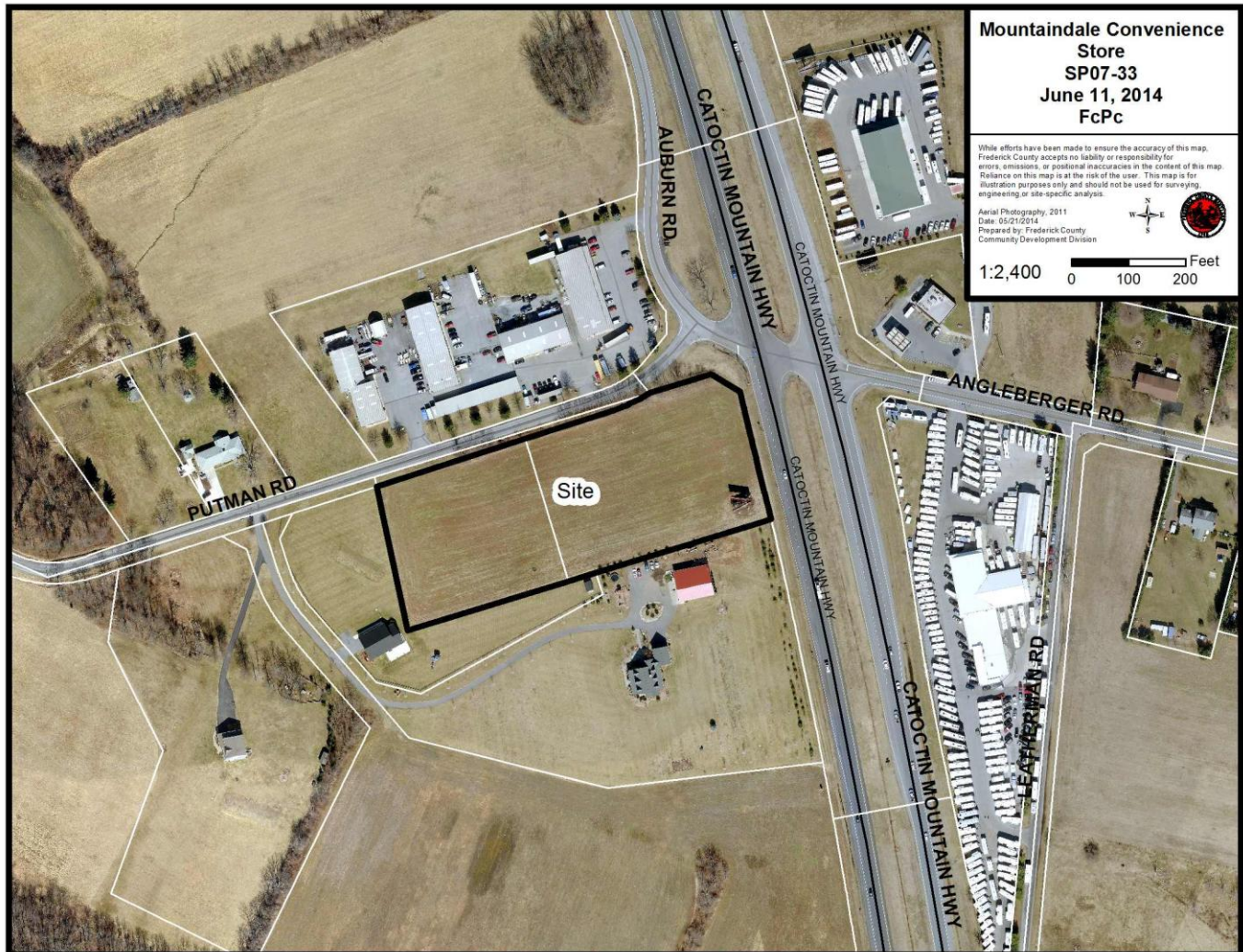
# STAFF REPORT

## ISSUE

### Development Request

The Applicant is requesting site plan and APFO approval for the construction of a 20 pump automobile filling station with a 4 pump fueling station for trucks with a 7,200 square foot accessory convenience store on a 4.00 acre site. The proposed use is being reviewed as a "Automobile filling and service station" with an accessory convenience store land use under the heading of *Automobile and Related Services* per §1-19-5.310 Use Table in the Zoning Ordinance and is a principal permitted use in the General Commercial Zoning District subject to site development plan approval. See Graphic #1 below.

Graphic #1 Site Aerial



## BACKGROUND

### Development History

In November of 1991 a Combined Preliminary/Final Plat (M-1138, Chapel Hill Section II) was approved to subdivide the 4 acres on the southwest corner of Putman Road and Catoclin Mountain Highway into lots 201 (2.310 acres) and 202 (1.690 acres). In December of 2007, a site development plan was submitted for the subject property that proposed a 19,146 square foot "Farm equipment sales or service" use; the site plan never received Frederick County Planning Commission (FCPC) approval. The Applicant has submitted a combined correction/addition plat (AP 14463) to combine existing lots 201 and 202 into one 4 acre parcel.

**Mountaindale Convenience Store**

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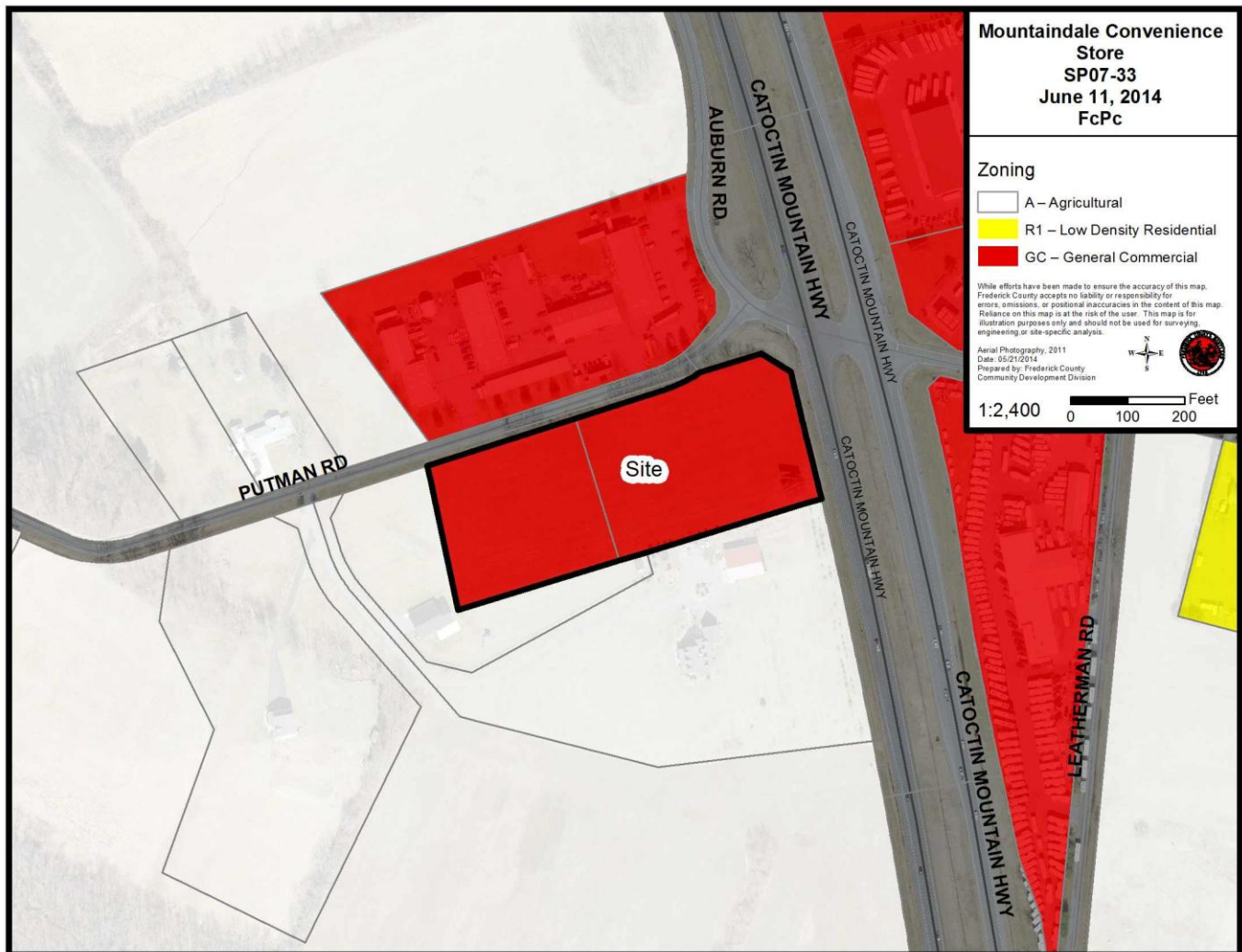
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## Existing Site Characteristics

The site is currently zoned General Commercial, and is vacant and undeveloped. The property to the north of the site is also zoned General Commercial and developed with several businesses, the properties to the west, and south are residential, US 15 runs along the eastern property boundary. See Graphic #2 below.

Graphic #2: Site Zoning



## ANALYSIS

### Summary of Development Standards Findings and Conclusions

The most significant issue associated with this development was designing a landscape buffer along US 15 and the southern property boundary to mitigate potential impacts. US 15 is designated as a federally, and locally-recognized Scenic Byway.

The topography of the site favors the overall buffering of the site and the proposed gas canopy from US 15 due to the stormwater management facilities being located between US 15 and the proposed fueling area, therefore providing additional screening. The Applicant also worked with staff to supplement the site plan with as many buffer plantings as practically feasible. The existing and proposed landscaping will form a buffer in the future which will improve the overall aesthetic of this site from US 15 as well as help screen the proposed use from the existing adjacent residential properties.

## Detailed Analysis of Findings and Conclusions

Site Development Plan Approval shall be granted based upon the criteria found in §1-19-3.300.4 Site Plan Review Approval Criteria of the Frederick County zoning ordinance.

**Site Development §1-19-3.300.4 (A):** *Existing and anticipated surrounding land uses have been adequately considered in the design of the development and negative impacts have been minimized through such means as building placement or scale, landscaping, or screening, and an evaluation of lighting. Anticipated surrounding uses shall be determined based upon existing zoning and land use designations.*

### **Findings/Conclusions**

1. **Dimensional Requirements/Bulk Standards §1-19-6.100:** Section §1-19-6.100 of the Zoning Ordinance stipulates the setback requirements and the minimum lot area for the proposed use. The setback requirements for an 'Automobile and Related Service' land use within the General Commercial zoning district are 25-foot front yard and 25-foot rear yard, with 8-foot side yards. The maximum height allowed is 60 feet. The minimum lot size for the zoning district is 12,000 square feet.

This site is a corner lot which has access to Putman Road and borders US 15; therefore in accordance with Z.O. Section 1-19-6.140.C; this site will have two front yards and two side yards, with no rear yard setbacks. Required setbacks for all new structures are as follows: Front Yard: 25 feet, Side Yard: 8 feet, with a maximum height of 60 feet. The applicant proposes the following setbacks:

Front Yard: 88 feet (to store-US 15), Front Yard: 150 feet (to store-Putnam Road), Side Yard: 449 feet (to store-western property line), Side Yard (to southern property line): 52 feet.

The proposed plan meets the Bulk/Dimensional requirements.

2. **Signage §1-19-6.300:** The site is subject to the signage requirements set forth in Zoning Ordinance Section 1-19-6.320.

Signage allowed for this site is calculated at 10 X Square Root of the linear footage of the side of the building facing a public street plus the side of the building on which the primary access is located. Based on these provisions, the maximum allowable building signage is 134 square feet.

The Applicant is proposing a total of 145 square feet, and is therefore under the total permitted signage for the site and adheres to the zoning ordinance signage regulations.

3. **Landscaping and Screening §1-19-6.400:** Landscaping is required in relation to the proposed improvements or additions that are occurring on site. The Applicant is meeting Zoning Ordinance requirements through a combination of preserving as much of the existing on-site landscaping and providing additional landscaping where needed. The Applicant has provided the number of required street trees on all street frontages, as well as required parking lot and parking area buffer landscaping in accordance with the Zoning Ordinance. The Applicant has also agreed to increase the amount of landscaping along the property border with US 15 as well as plant a full evergreen and mixed deciduous buffer along the western and southern property lines in order to better screen the proposed use from the existing residential and agricultural properties. This site plan proposal complies with the landscaping requirements of 1-19-6.400.

4. **Lighting §1-19-6.500:** The Zoning Ordinance provides that the maximum height of pole and building mounted lighting is 18' for commercial uses and that lighting shall not exceed .50 foot-candles as measured from the property line. According to the site plan submitted by the Applicant the proposed lighting will be 20',6" foot tall pole mounted lighting and shall be cast down to prevent glare onto adjoining roads and properties. There will be only slight light trespass over 0.5-foot candles at the property line along Putnam Road between the two vehicle entrances. The remainder of the site properly adheres to the maximum light trespass of no greater than 0.5 foot candles at the property lines.

***Zoning Ordinance section 1-19-6.500.G** states: The Planning Commission may modify the lighting standards within this section based on characteristics of the proposed use, photometric studies, nationally recognized standards, or other documentation as approved by the Planning Commission.*

The Applicant has requested light trespass and lighting pole height modifications in accordance with section 1-19-6.500.G, based on the characteristics of the proposed use (See Exhibit #3). Staff does not object to the modest increase in pole height and slight light trespass in the areas of the eastern most access point as requested by the applicant.

### **Conditions**

**Lighting Height and Spillage Modification** in accordance with ZO Section 1-19-6.500.G, to permit light pole heights of 20.5 feet, and slight light spillage onto Putman Road between the two proposed vehicle entrances.

***Transportation and Parking §1-19-3.300.4 (B):** The transportation system and parking areas are adequate to serve the proposed use in addition to existing uses by providing safe and efficient circulation, and design consideration that maximizes connections with surrounding land uses and accommodates public transit facilities. Evaluation factors include: on-street parking impacts, off-street parking and loading design, access location and design, vehicular, bicycle, and pedestrian circulation and safety, and existing or planned transit facilities.*

### **Findings/Conclusions**

1. **Access/Circulation:** Access to the site will be via Putman Road. The site plan is proposing one 35 foot wide, full movement access point onto Putman and one 20 foot wide exit only access onto Putman Road. The 20 foot wide exit only access point will be located to the east of the full movement access point. The Applicant is also required to widen Putman Road to 20' along its area of disturbance and construct a concrete median at the corner of Putnam Road and US 15 in order to preclude left turns onto and through movements across US 15.
2. **Connectivity §1-19-6.220 (F):** The site connectivity to the east is limited due to the location of US 15. The site is served by two access points on the northern property boundary onto Putnam Road. Inter parcel connectivity is not encouraged to the west and south due to the adjacent Agricultural zoning district surrounding the site.
3. **Public Transit:** This site is not served by Transit.
4. **Vehicle Parking and Loading §1-19-6.200-through 1-19-6.220:** The convenience store portion of the site requires 1 space for every 300 square feet of floor area devoted to customer service. Therefore 7,200 square feet of customer service area requires 24 parking spaces, including a 730 square foot office, which requires 1 space for every 300 square feet of office space, therefore an additional 2 spaces are need. Therefore, the Applicant is required to provide 26 parking spaces on site; the Applicant is proposing 29 spaces including 2 ADA accessible spaces. The Applicant

**Mountaindale Convenience Store**

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is also proposing five additional 14'x50' tractor trailer parking spaces on the western portion of the site. Staff has reviewed the proposed tractor trailer parking spaces and has determined that they are adequately sized and located on site in order to reduce potential conflicts with vehicular traffic and pedestrian circulation. A tractor trailer turning template has been provided on the site plan which clearly shows the ideal circulation route of the tractor trailers.

**Zoning Ordinance Section 1-19-6.220.A.1** states; *For the purpose of this chapter, the parking space requirements in the following table will apply. Parking shall be limited to the number of spaces required based on an evaluation of each proposed use, hours of operation, and joint or shared parking agreements. An increase or reduction in the number of required parking spaces may be granted by the Planning Commission where the applicant or Planning Commission authorized representative can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by the Institute of Transportation Engineers (ITE), or other documentation as approved by the Planning Commission.*

The Applicant has requested a modification in accordance with Section 1-19-6.200.A.1 in order to construct 3 additional parking spaces over the required number of 26 (See Exhibit #2). The Applicant has found that the parking increase is needed based on characteristics of the proposed use including quick stops during commuting peak hours. The additional parking also provides flexibility for parking space options which may help alleviate backups and delays that may impede on-site and off-site traffic.

5. **Bicycle Parking §1-19-6.220 (H):** The Applicant is required to provide 1 bike rack for every 20 parking spaces, therefore the Applicant is required to provide 2 bike racks. The Applicant is proposing four bike racks and therefore complies with this requirement.
6. **Pedestrian Circulation and Safety §1-19-6.220 (G):** There are no sidewalks proposed along the US 15 or Putman Road frontages. There are pedestrian crosswalks leading from the proposed fuel islands to the convenience store as well as full sidewalks around the perimeter of the convenience store.

### **Findings/Conclusions**

**Parking Space Modification** in accordance with ZO Section 1-19-6.220.A.1, to permit 3 additional parking spaces over the target number of 26 spaces.

**Public Utilities §1-19-3.300.4 (C):** *Where the proposed development will be served by publicly owned community water and sewer, the facilities shall be adequate to serve the proposed development. Where proposed development will be served by facilities other than publicly owned community water and sewer, the facilities shall meet the requirements of and receive approval from the Maryland Department of the Environment/the Frederick County Health Department.*

### **Findings/Conclusions**

1. **Private Well and Septic:** An existing well will provide potable water to the proposed convenience store and filling station. The second well will be used for non-potable watering of the site in accordance with Frederick County Health Department requirements. The existing septic platted for Lot #202 (2,145 gpd) and the additional septic area on Lot #201 will be abandoned, and a Correction/Addition Plat (AP 14463) will combine the existing lots.. Public bathrooms will be provided, but no showers and no public seating areas are planned for eating on-site. Septic flow has been estimated at 3,800 SF (patron area) x 0.75 gpd = 2,850 gpd. The Health Department has conditionally approved the proposed site plan.

**Natural features §1-19-3.300.4 (D):** *Natural features of the site have been evaluated and to the greatest extent practical maintained in a natural state and incorporated into the design of the development. Evaluation factors include topography, vegetation, sensitive resources, and natural hazards.*

### **Findings/Conclusions**

1. **Topography:** The topography is rather flat, with slopes significantly less than 15%. The site sits only a few feet higher than the US 15 road bed.
2. **Vegetation:** The entire site is clear of any large stands of natural vegetation and is planted with crops. There is an existing hedgerow along Putman Road, which will be removed and replanted with shade trees as part of the development proposal.
3. **Sensitive Resources:** There are no sensitive environmental features located on this site.
4. **Natural Hazards:** There are no natural hazards located on this site.

**Common Areas §1-19-3.300.4 (E):** *If the plan of development includes common areas and/or facilities, the Planning Commission as a condition of approval may review the ownership, use, and maintenance of such lands or property to ensure the preservation of such areas, property, and facilities for their intended purposes.*

### **Findings/Conclusions**

1. **Proposed Common Area:** There are no common areas proposed as part of this development proposal.
2. **Ownership:** This site is a non-residential place of business and is under single ownership.

### **Other Applicable Regulations**

**Moderately Priced Dwelling Units – Chapter 1-6A:** The proposed use is non-residential; therefore, MPDU's are not required.

**Stormwater Management – Chapter 1-15.2:** Stormwater Management (SWM) shall be provided in accordance with the 2000 Maryland Stormwater Design Manual, and according to the 2007 SWM Act. SWM will be provided within a series of on-site micro-bioretenment (M-6) facilities. A SWM Concept Plan (AP 13964) has been reviewed and approved by Staff.

**Subdivision Regulations – Chapter 1-16:** The site is currently comprised of two lots; Lot 201 and Lot 202. The Applicant is currently working with County Staff in order to combine Lots 201 and 202 through a Combination Addition/Correction Plat (AP #14463). The septic area on the existing Lot 201 is being abandoned and the septic area on Lot 202 is being expanded by the Correction Plat.

### **APFO – Chapter 1-20:**

1. **Schools.** Schools are not impacted because the proposed development is a non-residential use.
2. **Water/Sewer.** The site is to be served by private well and septic and is classified NPS, and is therefore exempt from APFO Water/Sewer.

- 3. Roads.** As proposed in the traffic impact analysis (TIA) performed by Wells and Associates, dated December 20, 2013 and revised on March 28, 2014, the Project will generate 295 am and 367 pm weekday peak hour driveway trips. .

The study area included the two site access points with Putman Road, and Auburn Road intersections with Putman Road and US 15. All intersections were found to be adequate in the project design year of 2017 except the Auburn Road approach to US 15 which failed due to long delays for the eastbound through and left turn movements, caused entirely by site generated traffic. The Developer is required to mitigate all road improvements that do not satisfy adequacy standards per §1-20-31. To mitigate this failure, the following improvements must be constructed by the applicant:

1. Channelize the Auburn Road approach to US 15 to force all turns to turn right onto southbound US 15.
2. Re-construct the US 15/Fish Hatchery Road intersection to accommodate the additional U-turning traffic by, at a minimum, constructing a new acceleration lane in the US 15 median.

In full satisfaction of the APFO requirements in §1-20-12(H), the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. Escrow Account No. 3742: US 15 Median Re-construction at and in vicinity of Devilbiss Bridge Road: The estimated cost of this Improvement is \$3,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.36%. Therefore, the Developer hereby agrees to pay \$40,800 to the escrow account for this Road Improvement.
2. Escrow Account No. 3805: US 15 Northbound Accel Lane Extension at Devilbiss Bridge Road: The estimated cost of this improvement is \$38,706. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 7.23%. Therefore, the Developer hereby agrees to pay \$2,798 to the escrow account for this Road Improvement.

Therefore, prior to building permit issuance, the Developer hereby agrees to pay \$43,598 to the escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on June 11, 2017.

***Forest Resource – Chapter 1-21:*** This development is subject to FRO. A Combined Preliminary/Final FRO plan has been submitted and is currently under review. No forest removal is proposed. The required 0.60 acre afforestation requirement will be provided by planting a 0.45 acre FRO easement on-site and 0.15 acres of miscellaneous credits for landscape plantings. This FRO mitigation must be provided prior to applying for grading or building permits, whichever is applied for first.

***Historic Preservation – Chapter 1-23:*** There are no historic properties located on this site; however the site is adjacent to the federally- and locally-recognized Scenic Byway. The Applicant has worked with Staff to provide landscaping along the perimeter of the site that will provide screening and improve aesthetics.



## Summary of Agency Comments

<b>Other Agency or Ordinance Requirements</b>	<b>Comment</b>
<b>Development Review Engineering (DRE):</b>	Conditionally Approved
<b>Development Review Planning:</b>	Hold: Address all agency comments as the plan proceeds through to completion.
<b>State Highway Administration (SHA):</b>	Conditionally Approved
<b>Div. of Utilities and Solid Waste Mngt. (DUSWM):</b>	N/A
<b>Health Dept.</b>	Approved
<b>Office of Life Safety</b>	Approved
<b>DPDR Traffic Engineering</b>	Approved
<b>Historic Preservation</b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Site Plan and APFO. If the Planning Commission conditionally approves the site plan, the site plan is valid for a period of three (3) years from the date of Planning Commission approval.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on June 11, 2017.
3. Planning Commission approval of the requested Lighting Spillage & Pole Height Modification as requested by the Applicant. to allow light trespass over 0.5-foot candles at the property line between the vehicle entrances along Putman Road (as depicted on the approved photometric plan) and a pole height of 20.5 feet..
4. Planning Commission approval of the requested Parking Space Modification as requested by the Applicant to allow construction of 29 parking spaces which is three more than the required number of 26.
5. The Correction/Addition Plat (AP 14463) combining existing lots 201 & 202 (TM 40, Parcel 546) shall be approved, recorded and the respective liber folio number of the new lot shall be listed on the site plan prior to final approval.

## **PLANNING COMMISSION ACTION** **MOTION TO APPROVE**

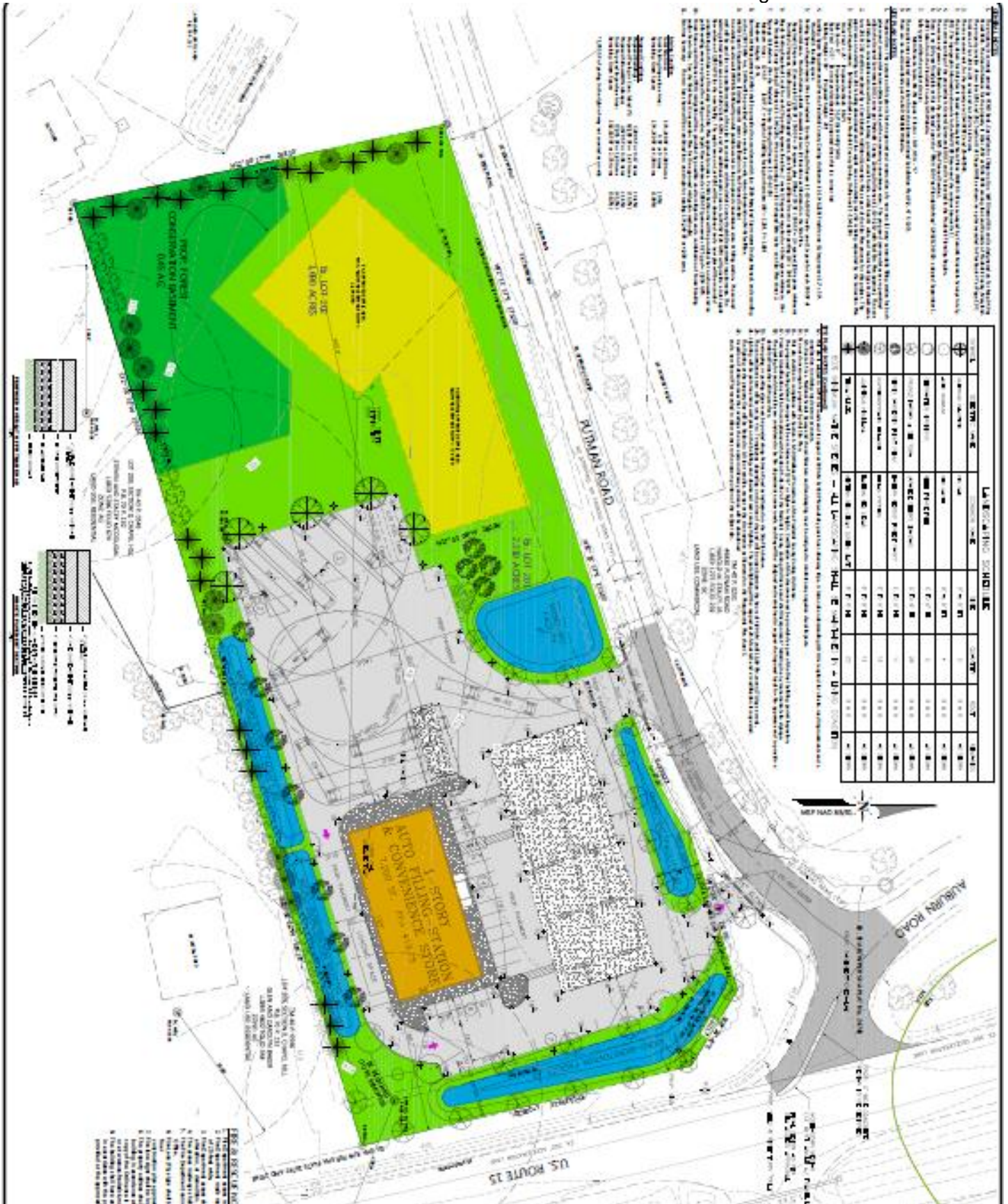
I move that the Planning Commission **APPROVE** Site Plan SP-07-33 (AP# 13958) **with conditions** and modifications as listed in the staff report **including APFO approval** for the proposed 20 pump automobile filling station with a 4 pump fueling station for trucks as well as a 7,200 square foot accessory convenience store with on a 4.00 acre site, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.

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June 11, 2014

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Exhibit #1: Mountaindale Convenience Store Site Plan Rendering



## **Terra Solutions Engineering, LLC**

*Commercial & Residential Land Planning and Engineering*

*"Solutions through experienced Engineering"*

5216 Chairman's Court, Unit 105  
Frederick, Maryland 21703

Phone: 301-378-9842  
Fax: 301-378-9846

April 8, 2014

Mr. Tolso DeSa  
Frederick County Division of Permitting  
and Development Review (DPDR)  
30 North Market Street  
Frederick, MD 21701

Re: **Mountindale Convenience Store  
Modification Request for Overage of  
Parking Space Requirements  
Tax Map 40, Parcel 546  
Situated at 6825 Putnam Road  
File #: SP07-33, Project No.: 13958**

Dear Mr. DeSa:

Pursuant to the requirements of Frederick County Zoning Ordinance (§ 1-19-6.220 (A) (1)):

*["an increase or reduction in the number of required parking spaces may be granted by the Planning Commission where the applicant or Planning Commission authorized representative can demonstrate need based on characteristics of the proposed use, hourly parking demand studies published by ITE or other documentation as approved by the Planning Commission."],*

This modification request letter is being submitted for approval of an additional three (3) parking spaces to serve the new Mountindale Convenience Store.

Based on a total commercial area of 7,200 square feet and a 2<sup>nd</sup> story office area of 730 square feet, we anticipated the maximum parking count of 1 space for each 300 square feet being required; therefore, the maximum parking space requirement was determined to be 26.4 spaces. In order to allow for the occasional overflow capacity add employee parking, we are asking that an additional 2.6 spaces be approved, for a total domestic parking count of 29 spaces. Five (5) tractor trailer parking spaces are provided as requested by Frederick County Planning Staff.

Sincerely,

**Terra Solutions Engineering, LLC**



Gerald Lee Miller, Jr., PE

Cc: Mr. Julian Mitchell

Mountindale Convenience Store

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*Terra Solutions Engineering, LLC*

**Mountindale Convenience Store**

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## **Terra Solutions Engineering, LLC**

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*"Solutions through experienced Engineering"*

5216 Chairman's Court, Unit 105  
Frederick, Maryland 21703

Phone: 301-378-9842

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May 2, 2014

Mr. Tolso DeSa  
Frederick County Division of Permitting  
and Development Review (DPDR)  
30 North Market Street  
Frederick, MD 21701

Re: **Mountaindale Convenience Store  
Modification Request for Off-Site Light  
Spillage and Light Mounting Height  
Tax Map 40, Parcel 546  
Situated at 6825 Putman Road  
File #: SP07-33, Project No.: 13958**

Dear Mr. DeSa:

Pursuant to the requirements of Frederick County Zoning Ordinance (§ 1-19-6.500 (G)):

*["The Planning Commission may modify the lighting standards within this section based on characterizes of the proposed use, photometric studies, nationally recognized standards, or other documentation as approved by the Planning Commission."],*

This modification request letter is being submitted for the approval of light spillage in excess of 0.5 foot-candles across the property line at the entrance to Putman Road, and for an increase in the light pole height to a maximum of 20.5-feet to serve the new Mountaindale Convenience Store.

As designed, the canopy lighting and a single free-standing light pole located at the eastern entrance to the subject site generate a minor level of light in excess of 0.5 foot-candles at the front property line along Putman Road. The excess light only extends off-site approximately 15-feet and falls well within the limits of paved Putman Road. Pursuant to a discussion with DPDR Staff, this level of off-site lighting is acceptable and preferred at this location adjacent to the site entrance.

As for the additional 20.5-foot light pole height request, we have discussed the proposed pole height with the supplier "Red Leonard Associates" and request that we are allowed to use the standard pole height as specified verses going to a shorter pole height. The additional 30" of pole height reduces the amount of total light poles required across the site by as many as three lights. Lowering the lights also creates the need for additional lighting or reduces the effectiveness (i.e., foot-candles per square foot) of the same number of total light poles. The current design and pole heights allow for a nice distribution of lighting across the site and easily meet the maximum 0.5 foot-candle limit at all property lines around the site, except for the eastern site entrance at Putman Road, as discussed above. Since this is a commercial use, the County standard calls for an 18-foot

maximum, but allows a 24-foot maximum on industrial sites. Typically industrial sites are well screened from adjacent properties by code and require taller lighting due to potential on-site activities. Since the Mountaindale Store site is in a fairly remote area and sufficient site screening has been proposed along all adjacent residential properties, we feel no adverse impacts will be encountered allowing for the proposed on-site pole lighting to exceed the maximum recommended Zoning Ordinance height by 30" (i.e., § 1-19-6.500 (B)(2)).

We appreciate your favorable consideration of the two (2) modification requests for light spillage in excess of 0.5 foot-candles and exceeding the maximum standard commercial lighting height. If additional information is required, please do not hesitate in contacting us.

Sincerely,

**Terra Solutions Engineering, LLC**



Gerald Lee Miller, Jr., PE

Cc: Mr. Julian Mitchell

Mountaindale Convenience Store





**FREDERICK COUNTY GOVERNMENT  
DIVISION OF COMMUNITY DEVELOPMENT**

*Gary Hessong, Acting Division Director*

*Planning & Development Review Department*

*Jim Gugel, Planning Director*

30 North Market Street  
Frederick, Maryland 21701

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O: 301-600-1153 F: 301-600-2054

**Commissioners**

Blaine R. Young  
*President*

C. Paul Smith  
*Vice President*

Billy Shreve  
David P. Gray  
Kirby Delauter

Lori L. Depies, CPA  
*County Manager*

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**ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING**

**Mountaindale Convenience Store**

*Site Plan #SP 07-33 AP #13959*

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Mr. Julian Mitchell (the "Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the Mountaindale Convenience Store Site Plan (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements and contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's proposal for an up to 7,200 sq.ft. convenience store with up to 22 gasoline fueling positions, on land which is zoned General Commercial (GC), and located in the southern quadrant of US 15 and Putman Road, with access on Putman Road (the "Property"). This APFO approval will be for the development of the Mountaindale Convenience Store, which was conditionally approved by the Commission on June 11, 2014.

**Schools:** Schools are not impacted because the development of the property is a non-residential use.

**Water and Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan*. The Project will be served by well and septic.

**Road Improvements:** As proposed in the traffic impact analysis (TIA) performed by Wells and Associates, dated December 20, 2013 and revised on March 28, 2014, the Project will generate up to 295 am and 367 pm weekday peak hour driveway trips. The Developer is required to mitigate all road improvements that do not satisfy adequacy standards per §1-20-

31. The Developer is also required to provide fair share contributions to existing escrow accounts per §1-20-12(H).

In full satisfaction of the APFO requirements in §1-20-31 and as necessitated by the direct impact of this Development, the Developer shall construct the following off-site improvements as required by the State Highway Administration (SHA):

1. Channelize the Auburn Road approach to US 15 to force all turns to turn right onto southbound US 15
2. Re-construct the US 15/Fish Hatchery Road intersection to accommodate the additional U-turning traffic by, at a minimum, constructing a new acceleration lane in the US 15 median

These improvements shall be guaranteed by SHA permit prior to the issuance of a building permit and open to traffic prior to the issuance of a Certificate of Occupancy.

In full satisfaction of the APFO requirements in §1-20-12(H), the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. Escrow Account No. 3742: US 15 Median Re-construction at and in vicinity of Devilbiss Bridge Road: The estimated cost of this Improvement is \$3,000,000. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 1.36%. Therefore, the Developer hereby agrees to pay \$40,800 to the escrow account for this Road Improvement.
2. Escrow Account No. 3805: US 15 Northbound Accel Lane Extension at Devilbiss Bridge Road: The estimated cost of this improvement is \$38,706. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is 7.23%. Therefore, the Developer hereby agrees to pay \$2,798 to the escrow account for this Road Improvement.

Therefore, prior to building permit issuance, the Developer hereby agrees to pay **\$43,598** to the escrow accounts for these Road Improvements. Should these payments not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on June 11, 2017.

**Disclaimer:** This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

**[Signatures Next Page]**

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*Mountindale Convenience Store LOU*

**DEVELOPER:**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Julian Mitchell

**FREDERICK COUNTY PLANNING COMMISSION:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert Lawrence, Chair or Dwaine E. Robbins, Secretary

**ATTEST:**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Gary Hessong, Director, Permits & Inspections

*Planner's Initials / Date* \_\_\_\_\_

*County Attorney's Office Initials / Date* \_\_\_\_\_  
(Approved as to legal form)